



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

Action by D. G. Aronberg against J. Leon Wood and another, partners doing business as J. Leon Wood & Co. Judgment for plaintiff after a verdict for defendants had been set aside, and defendants bring error. Reversed, and judgment entered on the verdict.

E. A. Bilisoly, of Norfolk, *Geo. S. Martin* and *R. W. Shultice*, of Norfolk, for plaintiffs in error.

Williams, Loyall & Tunstall, of Norfolk, for defendant in error.

POLLARD *v.* COMMONWEALTH.

Jan. 19, 1922.

[110 S. E. 354.]

1. Indictment and Information (§ 125 (1)*)—Prohibition Act, Permitting a Number of Violations to Be Charged in One Count, Valid.—Prohibition Act, § 7, permitting a number of violations of such act to be charged in a single count in the manner thereby prescribed, is valid.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 441.]

2. Intoxicating Liquors (§§ 13, 132*)—Part of State Prohibition Act against Importation Not Nullified by Eighteenth Amendment or Volstead Act.—Prohibition Act, § 39, forbidding the importation of ardent spirits into the state from a point without, is not nullified by Const. U. S. Amend. 18, or the Volstead Act; the provision of the Webb-Kenyon Act (U. S. Comp. St. § 8739), which under the commerce clause empowered such inhibition by the state, being left in force by the Volstead Act, and section 35 repealing acts only so far as inconsistent therewith.

Error to Corporation Court of Norfolk.

James E. Pollard was convicted of a violation of the Prohibition Act, and he brings error. Affirmed.

N. T. Green, of Norfolk, for plaintiff in error.

Jno. R. Saunders, *Atty. Gen.*, *J. D. Hank, Jr.*, *Asst. Atty. Gen.*, and *Leon M. Bazile*, *Second Asst. Atty. Gen.*, for the Commonwealth.

DAVIS *v.* COMMONWEALTH.

Jan. 19, 1922.

[110 S. E. 356.]

1. Burglary (§ 9 (1)*)—"Actual Breaking" and "Constructive Breaking" Defined.—Breaking, as an element of the crime of burglary,

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

may be either actual or constructive, there being a constructive breaking when an entrance has been obtained by threat of violence, by fraud, or by conspiracy, and an actual breaking where there is the application of some force, slight though it may be, whereby the entrance is effected, and may be the mere pushing open of a door, turning a key, lifting a latch or use of slight physical force.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 655.]

2. Burglary (§ 9 (1)*)—One Having Right to Enter Premises at Any Time Not Guilty of “Breaking.”—One having the relation of companion and friend to the owner of a house, with the right to enter the premises at any time of the day or night, and to eat and sleep there whenever she pleased, was not guilty of a breaking, as an element of the crime of burglary, in entering the premises and taking money therefrom.

[Ed. Note.—For other definitions, see Words and Phrases, First and Second Series, Breaking (In Criminal Law). For other cases, see 2 Va.-W. Va. Enc. Dig. 656.]

3. Criminal Law (§ 1036 (8)*)—Conviction Reversed on Point Raised First on Appeal.—A conviction for burglary was reversed, where it appeared that the evidence did not show that accused was guilty of “breaking” into the house, though the point was not raised on the trial below.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 560.]

Error to Corporation Court of City of Newport News.

Annie Davis was convicted of burglary, and brings error. Reversed.

W. R. Walker and *J. Thomas Newsome*, both of Newport News, for plaintiff in error.

Jno. R. Saunders, *Atty. Gen.*, and *Leon M. Bazile*, *Asst. Atty. Gen.*, for the State.

ELLETT v. COMMONWEALTH.

Jan. 19, 1922.

[110 S. E. 358.]

1. Taxation (§ 93 (2)*)—Property of Resident Held by Trustee Out of State Taxable.—Where a citizen resident in the state has a life estate in choses in action held in trust by a nonresident trustee, they are taxable in the state, although they are not and never have been within the state.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 101.]

2. Taxation (§ 414*)—Choses in Action Held by Nonresident Trustee Properly Listed in Name of Life Tenant.—A life estate in choses

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.